

Office of the Secretary, USDA

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the Board or otherwise indicates an intention not to continue the prosecution of defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 33. If good cause is not shown, the Board may take appropriate action.

Rule 32. Remand From Court

Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and tie limitations permit, such orders shall conform to these rules.

Rule 33. Sanctions

If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Rule 34. Alternative Dispute Resolution

Upon joint motion or with the consent of both parties, the Board may permit the use of methods of Alternative Dispute Resolution (ADR). The Board shall notify parties of the availability of ADR methods by transmitting information with its notice of docking (Rule 3).

Rule 35. Application for Attorneys' Fees and Expenses Under the Equal Access to Justice Act

The Equal Access to Justice Act (EAJA), 5 U.S.C. 504, allows payment of attorneys' fees and expenses to certain prevailing parties in administrative adjudications with the Government unless the Government's position was substantially justified. Rules governing applications for fees and expenses under EAJA can be found in 7 CFR 1.180 *et seq.*

PART 25—RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

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AUTHORITY: 5 U.S.C. 301; 26 U.S.C. 1391 *et seq.*

SOURCE: 60 FR 6950, Feb. 6, 1995, unless otherwise noted.

Subpart A—General Provisions

§ 25.1 Applicability and scope.

(a) *Applicability.* This part establishes policies and procedures applicable to rural Empowerment Zones and Enterprise Communities, authorized under the Omnibus Budget Reconciliation Act of 1993, title XIII, subchapter C, part I (Pub. L. 103-66, approved August 10, 1993), which amended the Internal Revenue Code by adding a new subchapter U, relating to the designation and treatment of Empowerment Zones and Enterprise Communities.

(b) *Scope.* This part contains provisions relating to area requirements,

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the nomination process for rural Empowerment Zones and rural Enterprise Communities, and the designation of these Zones and Communities by USDA. Provisions dealing with the nominations and designation of urban Empowerment Zones and Enterprise Communities are promulgated by the United States Department of Housing and Urban Development (HUD). USDA and HUD will consult in all cases in which nominated areas possess both rural and urban characteristics and will utilize a flexible approach in determining the appropriate designation.

§25.2 Objective and purpose.

The purpose of this part is to provide for the establishment of Empowerment Zones and Enterprise Communities in rural areas, to stimulate the creation of new jobs, particularly for the disadvantaged and long-term unemployed, and to promote revitalization of economically distressed areas, primarily by providing or encouraging:

- (a) Coordination of economic, human, community, and physical development plans and related activities at the local level;
- (b) Local partnerships fully involving affected communities and local institutions and organizations in developing and implementing a strategic plan for any nominated rural Empowerment Zone or Enterprise Community;
- (c) Tax incentives and credits; and
- (d) Empowerment Zone/Enterprise Community Social Service Block Grant (EZ/EC SSBG) funds.

§25.3 Definitions.

As used in this part—

Applicant means the lead entity that has prepared and will implement the community's strategic plan, pursuant to the provisions of §25.200(c) of this part, for comprehensive economic, human, community, and physical development within the area; such an entity may include, but is not limited to, state governments, local governments, regional planning agencies, non-profit organizations, community-based organizations, or a partnership of community members and other entities.

Designation means the process by which the Secretary designates rural areas as Empowerment Zones or Enter-

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prise Communities eligible for tax incentives and credits established by subchapter U of the Internal Revenue Code (26 U.S.C. 1391 et seq.), EZ/EC SSBGS as established by the Department of Health and Human Services (HHS), and for consideration for programs of Federal assistance.

Empowerment Zone means a rural area so designated by the Secretary pursuant to this part. Up to three such zones may be designated.

Enterprise Community means a rural area so designated by the Secretary pursuant to this part. Up to 30 such communities may be designated.

EZ/EC SSBG Funds means grants made by the Secretary of HHS to States containing Empowerment Zones and Enterprise Communities whose strategic plans are qualified plans as defined in section 13761 of the Omnibus Budget Reconciliation Act of 1993.

Indian reservation means a reservation as defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)) or section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

Local government means any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and any combination of these political subdivisions which is recognized by the Secretary.

Nominated area means an area which is nominated by one or more local governments and the State or States in which it is located for designation pursuant to this part.

Population census tract means a census tract, or, if census tracts are not defined for the area, a block numbering area (BNA).

Poverty means the number of persons listed as being in poverty in the 1990 Census.

Revocation of designation means the process by which the Secretary may revoke the designation of an area as an Empowerment Zone or Enterprise Community pursuant to §25.403 of this part.

Rural area means any area defined pursuant to §25.504 of this part.

Secretary means the Secretary of Agriculture.

State means any State in the United States.